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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 PATRICK CONNALLY,  
12 Plaintiff,  
13 v.  
14 NOB HILL GRILL, at al.,  
15 Defendants.

No. C 15-5804 CRB

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

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17 This Americans with Disabilities Act case was originally brought by Plaintiff Patrick  
18 Connally, a person with physical disabilities, alleging that Defendants denied him access to  
19 the Nob Hill Grill because the entrance and restrooms were insufficiently accessible. See  
20 Report and Recommendation (“R&R”) (dkt. 28) at 1. Patrick Connally has since passed  
21 away. See id. His brother, Michael Connally, has filed a Motion to Substitute (dkt. 15) and a  
22 Motion to Amend the Complaint (dkt. 18) to add a man named Harrison Kinney—who was  
23 with Patrick Connally when he allegedly encountered physical barriers at the Nob Hill  
24 Grill—as a plaintiff. For the following reasons, and after reviewing the parties’ submissions  
25 and the relevant authorities, the Court ADOPTS the report and recommendation of the  
26 magistrate judge and DENIES both motions on standing and mootness grounds. See R&R.

27 During the pendency of these motions, Kinney has filed his own lawsuit, see Harrison  
28 Benjamin Kinney v. Nob Hill Grill, et al., No. 16-cv-3211, which has been related to this case.  
The Court agrees with the magistrate judge’s conclusion that Kinney’s lawsuit renders both

1 motions here moot. See R&R at 3–4; *Gardner v. Martino*, 563 F.3d 981, 990 (9th Cir. 2009).  
2 Plaintiff has not identified controlling authority to the contrary in its submissions to the  
3 magistrate judge or in its objection to the report and recommendation here. See R&R;  
4 Plaintiff's Objection (dkt. 30).<sup>1</sup> The Court thus ADOPTS the report and recommendation of  
5 the magistrate judge and DENIES both the Motion to Substitute and the Motion to Amend.

6 **IT IS SO ORDERED.**

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8 Dated: July 20, 2016



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10 CHARLES R. BREYER  
11 UNITED STATES DISTRICT JUDGE  
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28 <sup>1</sup> Furthermore, although the Court need not reach this issue, Plaintiff and Kinney have not  
established standing. See *Parr v. L & L Drive-Inn Rest.*, 96 F. Supp. 2d 1065, 1083 (D. Haw. 2000).